

NEW YORK JOCKEY INJURY COMPENSATION FUND, INC.

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STATEMENT OF RICHARD A. VIOLETTE, JR.

CHAIRMAN,

NEW YORK JOCKEY INJURY COMPENSATION FUND, INC.

BEFORE

**SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
UNITED STATES HOUSE OF REPRESENTATIVES
ENERGY AND COMMERCE COMMITTEE**

NOVEMBER 17, 2005

INTRODUCTION

Thank you Chairman Whitfield and the members of the House Subcommittee on Oversight and Investigations for your invitation to appear before you today and to discuss how we in the New York racing industry address on-track workers' compensation issues for jockeys, apprentice jockeys and exercise riders.

My name is Richard A. Violette, Jr. I am a professional thoroughbred race horse trainer and have been one for more than 20 years. I began my career as a trainer in New England at Suffolk Downs and Rockingham Park. I am currently based at Aqueduct Race Track in Queens, New York. My current stable consists of approximately 60 horses.

I am Chairman of the Board of Directors of the New York Jockey Injury Compensation Fund, Inc. I have had the pleasure to serve as the Fund's Chairman and as a member of the Fund's Board of Directors for more than 10 years.

In addition to being the Fund's Chairman, I have also been President of the National Thoroughbred Horsemen's Association since 2000 and have been a member of the Board of Directors of the New York Thoroughbred Horsemen's Association since 1990. I serve, as do all of the members of these Boards, on a *pro bono* basis. I was one of the founders in 2000 of the New York Groom Education Program, which educates backstretch workers on horse grooming techniques and English as a second language.

I am pleased to report to you that the New York Jockey Injury Compensation Fund has been successful in its mission to obtain workers' compensation coverage to assure indemnity and medical payments to injured jockeys, apprentice jockeys and exercise riders in New York and be cost effective in the process.

**BACKGROUND AND PURPOSE OF THE NEW YORK JOCKEY INJURY
COMPENSATION FUND, INC.**

Prior to the establishment of the Fund, jockeys, apprentice jockeys and exercise riders were often challenged in their claims for workers' compensation benefits as being independent contractors and thus, were not entitled to benefits.

The fact is that jockeys are a unique type of employee. It is not unusual for them to be employed by several different employers (owners or trainers) in the course of a day at the race track and in fact, within a single hour. When pressed for coverage after an accident, it would sometimes be argued that the trainer was the jockey's employer. Such cases were pending before the New York Workers' Compensation Board prior to the establishment of the Fund. This situation created special and unusual problems from those encountered by an average employee regarding identification of coverage and employment.

Similar problems arose with regard to the identification of which employer is responsible for an injury because of the unusual and distinctive jockey work environment. It is possible that a jockey may have an injured back after riding for an hour, and it may be impossible to determine which ride caused the injury even before getting to the question whether the owner or trainer was the jockey's employer.

The result of such disputes was that the jockey and his family were without means of income when there were disputes to determine which employer was responsible or when the independent contractor defense was raised. These problems resulted in wasted time and money by the Workers' Compensation Board in hearing after hearing to evaluate and determine cases and resulted in delays of benefits intended to be paid under the New York Workers' Compensation Law.

Chapter 346 of the Laws of 1990 of New York was enacted and, in addition to establishing the Fund, clarified the status of jockeys, apprentice jockeys and exercise riders as employees under the Workers' Compensation Law and established the Fund to procure workers' compensation coverage for them. Chapter 386 embraced the concept of one employer (the Fund) created by statute to provide coverage for a particular group of workers, in this case, the jockeys, apprentice jockeys and exercise riders who are injured on specified race tracks in New York State.

Employers are also the owners and trainers who pay their assessed fee to the Fund each year.

By statute, the Fund was created as a not-for-profit corporation. The Fund purchases coverage at a reduced rate, protecting owners and trainers and benefiting all jockeys, apprentice jockeys and exercise riders licensed for thoroughbred and quarterhorse racing on specified tracks in New York. It permits the Workers' Compensation Board to make an award against a single entity regardless of which owner or trainer was responsible and never to have resort to the New York Uninsured Employers Fund. With the New York Jockey Injury Compensation Fund, coverage

will always be in place. It is not, however, authorized to obtain workers' compensation coverage for stable employees and other backstretch workers at the race tracks.

Workers' compensation coverage obtained by the Fund is written by licensed insurance carriers and is issued on a blanket basis. The Fund currently obtains its worker's compensation coverage through the New York State Insurance Fund, the largest workers' compensation and disability benefits carrier in the state. The Fund does not issue workers' compensation coverage nor does it assume any risks.

Workers' compensation premiums are paid from annual assessments of all licensed owners and trainers racing in New York under Section 213 of the New York Racing, Pari-Mutuel Wagering and Breeding Law. Each year, the Fund determines the total funding necessary to acquire workers' compensation coverage and advises the New York State Racing and Wagering Board of the assessment to be made for the ensuing year.

To assure for the equitable distribution of payments from owners and trainers, the Fund establishes payment schedules that account for certain factors including, where appropriate and applicable, (i) the geographic location of a racing association or corporation at which the owner or trainer participates, (ii) the duration of such participation, (iii) the amount of purse earnings, (iv) the number of horses involved, and (v) such other factors as may be determined by the Fund to be fair, equitable and in the best interest of the racing industry. In addition, by law, the amount is to be deducted from an owner's share of purses may not exceed 1% per year.

The New York State Racing and Wagering Board requires any racing association, including non-profit and quarterhorse racing associations, to have each trainer utilizing the facilities of the association and each owner racing a horse there, place on deposit with the horsemen's bookkeeper of such association the amount to be established and paid in the manner determined by the Fund.

The Fund is governed by a seven member Board, six of whom are appointed by horsemen's organizations. The six board members who are appointed by the horsemen's organizations serve two year staggered terms. The effect of this structure is that no more than two members are subject to reappointment in any two year period, assuring a continuity of experienced representation on the Fund's Board. As a result of recently enacted New York legislation, the seventh Board member is elected every two years by a vote of all licensed New York jockeys and apprentice jockeys. Some Board members have accepted reappointments to their positions for two year terms on multiple occasions.

The Board is responsible for the transaction of all Fund business and the exercise of its powers and functions. The vote of four Board members is necessary for the transaction of any Fund business. Board members serve without compensation and are reimbursed for their expenses incurred in the performance of their official duties.

The Fund is subject to the regulation and examination of the State Racing and Wagering Board and is required to submit to the State Racing and Wagering Board annually a financial report and a report of its activities during the preceding year.

CONCLUSION

Since the Fund began its operations in 1991, it has made great strides in assuring the availability of workers' compensation coverage, thereby allowing injured jockeys, apprentice jockeys and exercise riders to receive indemnity and medical payments without unnecessary delay.

I am very proud of what we at the New York Jockey Injury Compensation Fund have accomplished. I have been blessed to serve with members of our Board that are incredibly intelligent, kind-hearted and motivated. Without them, none of our accomplishments would have been possible. On this note, this week Gordon Wooten, a long time Board member, passed away. His input and insight will be dearly missed and impossible to be replaced.

The Fund looks forward to continuing its mission working with the New York racing industry to obtain workers' compensation for jockeys, apprentice jockeys and exercise riders.

I would be pleased to answer any questions you may have.

Thank you.

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